REMARKS

In the Office Action of September 30, 2008 claims 1, 2, 5 to 9, 17, 18 and 20 to 23 are pending of which claims 1, 2, 5 to 9, 17, 18 and 20 to 23 are rejected.

In particular:

- Claims 1, 2, 5, 8 and 9 are rejected under 35 USC 102(b) as being anticipated by Cox et al (US 5,824,040)
- Claim 6 is rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of McNamara et al (US 6,004,347)
- Claims 17, 18, 22 and 23 are rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887)
- Claim 21 is rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887) and further in view of McNamara et al (US 6,004,347)

CLAIM AMENDMENTS

Claims 1 and 17 are amended to more clearly the nature of the claimed device.

Consequential amendments are made in dependent claims and claim 8 is cancelled.

The dependency of claim 20 has been corrected. We thank the Examiner for bringing this to the applicants attention.

We submit that in making these amendments no new subject matter has been added.

DISCUSSION

Claim 1

Claim 1 is rejected under 35 USC 102(b) as being anticipated by Cox et al (US 5,824,040)

In maintaining the objections to the claims of the present application the Examiner has raised a new reference Cox et al (US 5,824,040).

The examiner states that the reference Cox et al discloses a biocompatible graft material covering the inner surface of the stents thereby fulfilling the claimed "at least one of the stents having a bio-compatible graft material cover" and that the outer surface of the stents is uncovered thereby fulfilling the claimed "an uncovered stent portion". With respect we submit that the Examiner cannot have it both ways, either the stents are covered or they are uncovered, they cannot be both. In fact in the sense that they are claimed in the present application they are neither.

The reference Cox et al does not disclose a covered stent portion, it depicts a biocompatible graft material covered by a stent. There is a clear clinical advantage of the claimed graft material covering the stents rather than the stent covering the graft material. The intention of the covered portion is to cover a tear in the wall of the aorta, as is depicted in Figure 1 of the present application, to close off the tear. A stent on the outside of the graft material would not provide the required seal.

Further the reference Cox et al does not disclose an uncovered stent portion, it depicts a biocompatible graft material covered by a stent. The uncovered stent portion has a clear clinical advantage over a stent with a lining of graft material. The uncovered stent portion is to provide pressure on the wall of the lumen adjacent to an extending away from the rupture to deflate the false lumen caused by an aortic dissection. The importance of the use of self expanding stents for the provision of this pressure to deflate the false lumen resulting from an aortic dissection is discussed on page 9 in the paragraph which discusses Figure 5.

We refer the examiner to the portion of page 9 which states:

> " The stents provide gradual pressure on the wall of the lumen to close the false lumen and open up the true lumen."

It should be particularly noted by the Examiner that the claim defines self-expanding stents as these are elastic and will tend to provide continuous pressure against the wall of a lumen after deployment. The claim also specifies that the self expanding stents are linked together by links.

The use of uncovered stents to provide pressure on the wall of the lumen adjacent to an extending away from the rupture to deflate the false lumen is important because in this region there may be branch vessels extending from the aorta and an uncovered stent will not cause occlusion of these branch vessels. Occlusion could result in partial paralysis in a patient.

For these reasons we submit that the reference Cox et al does not teach or suggest the combination of claimed features in Claim 1 and we therefore submit that Claim is not anticipated by Cox et al (US 5,824,040).

Claims 2, 5, 8 and 9

Claims 2, 5, 8 and 9 depend from a not anticipated Claim 1 and hence we submit that Claims 2, 5 and 9 are also not anticipated by Cox et al (US 5,824,040).

Claim 6

Claim 6 is rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of McNamara et al (US 6,004,347).

Claim 6 depends from a non-anticipated claim 1 as discussed above and hence we submit that Claim 6 is not anticipated and is patentable. The deficiencies of the reference Cox et al as enumerated above are not taught or suggested by the reference McNamara et al. Claim 6 is, we submit, patentable over Cox et al (US 5,824,040) in view of McNamara et al (US 6,004,347).

Claim 17

Claim 17 is rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887).

The deficiencies of the reference Cox et al as enumerated above are not taught or suggested by the reference Brown et al. The reference Brown et al does not teach or suggest a covered portion of a stent graft but merely a portion of graft material extending away from a balloon expandable stent. The portion referred to as (12) in Figure 2 of Brown et al would not provide the clear clinical advantage of the claimed graft material covering self expanding stents because there would be no tendency for the graft material to seal against the wall of the aorta and close off a tear as discussed above and in the specification. As has been discussed in earlier responses the portion (13) of the device depicted Figure 2 of Brown et al would not

provide the clear clinical advantage of the claimed linked uncovered stents to provide continuous pressure against the wall of a lumen after deployment.

For these reasons we submit that Claim 17 is patentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887).

Claims 18, 22 and 23

Claims 18, 22 and 23 are rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887).

Claims 18, 22 and 23 depend from a patentable claim 17 as discussed above and hence we submit that Claims 18, 22 and 23 are also patentable. The deficiencies of the references Cox et al above are not taught or suggested by the reference Brown et al.

Claims 18, 22 and 23 are, we submit, patentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887.

Claim 21

Claim 21 is rejected under 35 USC 103(a) as being unpatentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887) and further in view of McNamara et al (US 6,004,347)

Claim 21 depends from a patentable claim 17 as discussed above and hence we submit that Claim 21 is patentable. The deficiencies of the references Cox et al and Brown et al as enumerated above are not taught or suggested by the reference McNamara et al.

Claim 21 is, we submit, patentable over Cox et al (US 5,824,040) in view of Brown et al (US 5,769,887) and further in view of McNamara et al (US 6,004,347).

Overall we submit that all claims are not anticipated and are patentable over the cited references.

Applicants are submitting an Information Disclosure Statement under separate cover via U.S. Mail.

The re-examination and reconsideration of this application is respectfully requested and it is further requested that this application be passed to issue.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment.

Respectfully submitted,
David Ernest Hartley
Ian Nixon
Peter John Mossop

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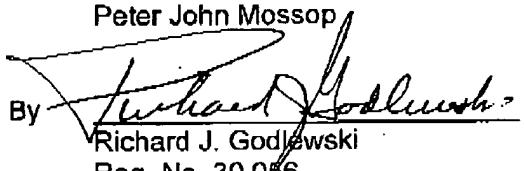
By 
Richard J. Godlewski
Reg. No. 30,056
(812) 330-1824